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PA-000.05146-USIN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Brian T. McNamara
Serial Number: 10/556,801
Filed: 11/14/2005
Group Art Unit: 3654
Examiner: Krueger, Stefan
Title: TIE-DOWN COMPENSATION FOR AN
ELEVATOR SYSTEM

REPLY BRIEF

Mail Stop AF
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This is in reply to the Examiner's Answer mailed on January 16, 2009. There are several points made by the Examiner that are addressed below. Applicant has already refuted and disagreed with the Examiner's entire position regarding the *Fuller, et al.* reference as described in Appellant's opening brief.

On page 14 of the Examiner's Answer, the Examiner points to several locations in the *Fuller, et al.* reference and contends that they somehow allow the Examiner to make the interpretation of the reference that the Examiner puts forth. The Examiner references column 3, line 20; column 4, line 60; and column 8, lines 24-26. The problem for the Examiner's position with regard to those locations of the reference is that each of them focuses on oscillations of a rope during elevator car movement. Those oscillations are not the same thing as a tendency of a cab or counterweight to move when the other has stopped. Instead, those oscillations are associated with movement of the motor and movement of the elevator car along its flight path.

The way in which the "variable extension" is controlled according to the *Fuller, et al.* reference is a part of the motion command used for intentionally moving the elevator car. That is

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the exact opposite of preventing movement. Additionally, it has nothing to do with a tension member as recited in Applicant's claims. The oscillations of the rope discussed in the *Fuller, et al.* reference are oscillations of a rope that the motor moves to move the car, not a tension member as recited in Appellant's claims.

The Examiner is stretching the teachings of the *Fuller, et al.* reference too far and ignoring the explicit teachings of that reference which are explained in Appellant's opening brief. The Examiner is completely redesigning the *Fuller, et al.* reference and going directly contrary to its express teachings when attempting to manufacture a *prima facie* case of obviousness.

On page 15 of the Examiner's Answer, the Examiner says that the *Baranda, et al.* reference teaches a load bearing member "can be alternatively utilized as a tension member." That contention by the Examiner is without basis. There is no such statement in the *Baranda, et al.* reference. "Tension member" as used in Appellant's claims has a particular meaning. The load bearing member or flat belt of the *Baranda, et al.* reference is used in place of a round rope that is used to suspend an elevator car and counterweight. That is not the same thing as the claimed tension member. The Examiner's position is not supported by the reference.

On page 16 of the Examiner's Answer, the Examiner contends that "a more conclusive disclosure" is required regarding the subject matter of Appellant's claim 6. There is no such requirement under 35 U.S.C. §112 or any of the cases that have treated that section. There is adequate disclosure in this case by virtue of the originally filed claim 6 and the quoted portions of the description mentioned in Appellant's opening brief. There is simply no basis for rejecting claim 6 under 35 U.S.C. §112.

All rejections must be reversed.

Respectfully submitted,

CARLSON, GASKEY & OLDS

By: 

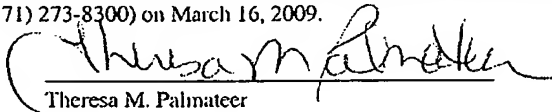
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Dated: March 16, 2009

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CERTIFICATE OF FACSIMILE

I hereby certify that this Reply Brief, relative to Application Serial No. 10/556,801, is being facsimile transmitted to the Patent and Trademark Office (Fax No. (571) 273-8300) on March 16, 2009.


Theresa M. Palmateer

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